

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9117

Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Mary R. Roman, Judge of the 175th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Robert M. Overholt

to be filed in a District Court of Harris County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Harris County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

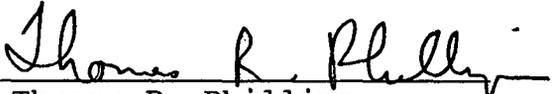
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 23rd day of April, 1996.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9117, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 24 day of April, 1996.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
v.	§	HARRIS COUNTY, TEXAS
ROBERT M. OVERHOLT	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complaining of Respondent ROBERT M. OVERHOLT, (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, the Texas Government Code Annotated §81.001, *et seq.* (Vernon 1988 and supp. 1994), the Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaints that form the basis of this Disciplinary Petition were filed on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent is a resident of Harris County, Texas. Respondent's principal place of practice is Harris County, Texas, and therefore venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. An officer may serve citation on Respondent at his business address located at 2825 Wilcrest, Suite 553, Houston, Harris County, Texas, 77042.

III.

On or about May 10, 1991, Respondent contacted Diane M. Gudan (hereinafter called "Gudan") by telephone after hearing about her concerns regarding her grandchildren. Gudan, the maternal grandmother of the three (3) children born to Johnny Clarence Newton and Wanda Marie Newton, wanted to obtain custody of her grandchildren because of alleged alcohol and chemical dependency by both parents.

Gudan agreed to Respondent's representation in her behalf and hired Respondent to proceed with the legal matter of negotiating custody of her grandchildren through court order. Respondent was paid \$5,000.00 by Gudan; however, Respondent did not provide Gudan with a employment contract that detailed the legal services that he would provide.

Respondent filed an Application for Protective Orders and an Original Suit Affecting the Parent-Child Relationship in the 308th Judicial District Court of Harris County, Texas. On or about May 28, 1991, the Protective Order was granted, however, the case was transferred to Dallas County because of the residency of the children and parents at that time.

On or about February, 1992, following a hearing before the 303rd Judicial District Court of Dallas County, Gudan was awarded Temporary Managing Conservatorship of her grandchildren. As the issue of legal guardianship continued, Respondent's professional relationship with Gudan declined. Over the course of representation, Respondent failed maintain communication regarding the scope and objectives of Gudan's case. In addition, Respondent failed to keep Gudan informed as to the status of the proceedings as they directly affected her in relation to the custody issues.

Consequently, on or about March 3, 1993, the 303rd Judicial District Court signed an Order of Dismissal for Want of Prosecution in Gudan's case. Respondent failed to inform his client that the case was about to be dismissed. As a result of Respondent's acts and/or omissions, Gudan's case was dismissed and was not reinstated.

IV.

On or about April 10, 1995, Gudan filed a complaint against Respondent with the State Bar of Texas. On or about April 21, 1995, Respondent received notice of the complaint directing Respondent to file a written response thereto by on or before May 20, 1995. Respondent failed to file a written response until June 13, 1995.

On or about June 15, 1995, Respondent received a State Bar of Texas subpoena commanding Respondent to appear and testify before the Grievance Committee at a June 20, 1995 investigatory hearing and to produce Gudan's client file on June 20, 1995. Respondent failed to comply with the subpoena by not appearing at the June 20, 1995 investigatory hearing or producing the subpoenaed documents.

V.

The acts and/or omissions of the Respondent described in Paragraphs III and IV above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule(s) 1.01(b)(1)(2)[in representing a client; a lawyer shall not neglect a legal matter entrusted to the lawyer; or frequently fail to carry out completely the obligations that the lawyer owes to his client]; 1.03(a) [a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable request for information]; 1.03(b) [a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions

regarding the representation]; and 1.15(b) [a lawyer shall not withdraw from representing a client without good cause and reasonable notice to protect the client's interests]; 8.01(b)[a lawyer in connection with a disciplinary matter, shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority] and 8.04(a)(8) [a lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure] of the Texas Disciplinary Rules of Professional Conduct.

VI.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel by Diane M. Gudan's filing of a complaint on or about April 10, 1995.

Prayer

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent, ROBERT M. OVERHOLT, by disbarment, suspension or reprimand as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

Stephen D. Statham
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
Fax No. (713) 759-1932



STEPHEN D. STATHAM
State Bar No. 19082500

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

March 11, 1996

Mr. John T. Adams, Clerk
Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

Re: Commission for Lawyer Discipline v. Robert M. Overholt

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Robert M. Overholt. Mr. Overholt is a resident of Harris County, Texas. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent resides to preside in this case. Upon appointment, request is hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Mr. Robert M. Overholt
2825 Wilcrest, Suite 553
Houston, Texas 77042

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure. If not, I would respectfully request that an alternate appointment be made.

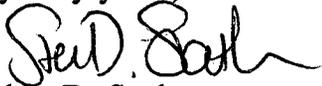
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition be returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the above documents, to the District Clerk of Harris County, Texas, and a return envelope to be sent to the District Clerk of Harris County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Mr. John T. Adams, Clerk
Supreme Court of Texas
March 11, 1996
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If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen D. Statham". The signature is fluid and cursive, with the first name "Stephen" and last name "Statham" clearly legible.

Stephen D. Statham
Assistant General Counsel

SDS/gcp
enclosures



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

April 24, 1996

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77210

Dear Mr. Bacarisse:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: The Commission for Lawyer Discipline v. Robert M. Overholt and a copy of the Supreme Court's order appointing the Honorable Mary R. Roman, Judge of the 175th District Court, San Antonio, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Mary R. Roman
 Mr. Robert M. Overholt
 Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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JAMES A. BAKER
GREG ABBOTT

April 24, 1996

Honorable Mary R. Roman
Judge, 175th District Court
300 Dolorosa Street
San Antonio, Texas 78205

Dear Judge Roman:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Overholt and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, six to eight weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-7593) to find out the district court to which this disciplinary case has been assigned. We then recommend that, either before or immediately after you set the case for trial, you again contact the Harris County District Court Administrative Office (713-755-6593) to reserve a courtroom, provide for a court reporter, etc. Finally, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (713-471-3911) to obtain information on lodging, allowable expenses, and claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

JUSTICES
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JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

April 24, 1996

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. Robert M. Overholt
2825 Wilcrest, Suite 553
Houston, Texas 77042

Dear Mr. McCormack and Mr. Overholt:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable Donald Mary R. Roman, Judge of the 175th District Court, San Antonio, Texas to preside in

Commission for Lawyer Discipline v. Robert M. Overholt

Sincerely,

SIGNED

John T. Adams
Clerk